

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

PROGRESSIVE AMERICAN )  
INSURANCE COMPANY, )

Plaintiff, )

v. )

) CIVIL ACTION NUMBER:2:06cv717-1D

CAROL THORN; JOLEEN LEEA )

COLON; DALE EUGENE )

KIRKINDOLL; ELIZABETH S. )

KIRKINDOLL; THOMAS HOLT )

KIRKINDOLL; JAMES W. GRIFFIN )

SANDRA L. GRIFFIN; PATRICK A. )

BELT; CHRISTOPHER B. BELT; )

GENE STEGMAIER; ESTATE OF )

WILLIAM R. KLAUSS, a deceased )

minor; ESTATE OF CHERETY THORN )

a deceased minor; LV STABLER )

MEMORIAL HOSPITAL; BRPT LAKE )

REHABILITATION CENTER; )

BUTLER COUNTY EMERGENCY )

MEDICAL SERVICES; )

Defendants. )

**MOTION FOR LEAVE TO AMEND COMPLAINT**

Comes now the plaintiff, Progressive American Insurance Company ("Progressive"), pursuant to Rule 15 of the Federal Rules of Civil Procedure, and requests leave to amend the complaint previously filed by it. In support of the motion, Progressive shows unto the court as follows:

1. Progressive is an insurance company incorporated and organized under the laws of the state of Ohio, having its principal place of business in the state of Ohio.

2. Progressive issued a policy of automobile insurance to Carol L. Thorn ("Thorn"). She is over the age of 19 years and is believed to be a resident citizen of the state of Georgia.

3. Joleen Leea Colon ("Colon") was the driver of a rental vehicle involved in an accident. She is the daughter of Thorn. Colon is over the age of 19 years and is believed to be a resident citizen of the state of Florida.

4. Colon was involved in an accident on I-65 near Evergreen in Butler County, Alabama. The accident occurred on December 26, 2004 when a vehicle driven by Colon crossed the center line of the interstate, striking a vehicle driven by Dale Eugene Kirkindoll ("Kirkindoll") which, in turn, struck a vehicle driven by James W. Griffin ("Griffin").

5. The defendant Kirkindoll is over the age of 19 years and is a resident citizen of the state of Louisiana. Kirkindoll's passengers were the defendants, Elizabeth S. Kirkindoll and Thomas Holt Kirkindoll. They are also over the ages of 19 years and are resident citizens of the state of Louisiana. They were all injured in the accident.

6. The remaining defendants are corporations incorporated and organized under the laws of either the state of Alabama or the state of Louisiana, having their principal places of business in those states. They are not incorporated and do not have their principal place of business of Ohio where Progressive is located. It is believed that they have a valid

hospital liens or subrogation claims as a result of treatment rendered to some of the injured defendants.

7. Progressive has received competing claims to its policy limits under the automobile policy issued to Thorn. Thus, it will deposit with the clerk of this court its checks in the amount of \$100,000 which represents the liability coverage available under the policy.

8. Progressive has learned of additional medical providers and insurers which provided treatment or benefits to the Kirkindoll defendants as a result of this accident. These include Baton Rouge Clinic, Our Lady of the Lake Regional Medical Center, Baton Rouge Orthopaedic Clinic, LLC, State Farm Health Insurance, GEMS, Inc., Schumacher Medical Group of Alabama, and Southern National Life Insurance Co., d/b/a Benefit Management Services.

9. These corporations may also have valid subrogation claims or hospital liens arising out of this accident. As such, it is necessary to add them as defendants in this action in order to obtain a complete resolution of this matter. These corporations should be added as interpleader defendants and required to assert any claim they may have to the interplead funds.

10. No party will be prejudiced by the addition of these defendants to this action.

11. Wherefore, Progressive requests leave to file an amended complaint adding these corporations as defendants.

/s/ R. Larry Bradford  
R. Larry Bradford, Attorney for  
Progressive American Insurance Company  
Attorney Bar Code: BRA039

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this the \_\_\_\_ day of June 2007, served a copy of the foregoing to all attorneys of records by placing a copy of same in the United States mail, postage prepaid, and properly addressed as follows:

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/s/ R. Larry Bradford

OF COUNSEL